

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KING MWASI,

Plaintiff,

v.

LUCKEN, *et al.*,

Defendants.

Case No. 1:21-cv-00702-JLT-BAM (PC)

**ORDER DIRECTING PLAINTIFF TO FILE
NOTICE REGARDING INTENT TO FILE
DISPOSITIVE MOTION OR PROCEED TO
TRIAL**

(ECF No. 69)

THIRTY (30) DAY DEADLINE

Plaintiff King Mwasi (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s first amended complaint against Defendants Lucken, Sepeda, and Blanco for excessive force in violation of the Eighth Amendment.

Pursuant to the Court’s August 14, 2024 order lifting the stay of this action following the August 13, 2024 settlement conference, the deadline for filing all dispositive motions (other than a motion for summary judgment for failure to exhaust) is December 13, 2024. (ECF No. 65.)

On September 27, 2024, Defendants filed a notice of their intent not to file a merits motion for summary judgment, and requesting that the Court set this matter for trial after May 2025 due to defense counsel’s trial calendar. (ECF No. 69.) Plaintiff has not filed a response to Defendants’ notice.

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1 In the interest of judicial efficiency, the Court finds it appropriate to direct Plaintiff to file
2 a response indicating whether he intends to file a dispositive motion in this action on or before
3 December 13, 2024, or whether he also requests that this matter be set for trial.

4 Accordingly, IT IS HEREBY ORDERED as follows:

5 1. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file **one** of the
6 following:

7 a. A notice stating that he intends to file a dispositive motion on or before December
8 13, 2024; **or**

9 b. A notice stating that he does not intend to file a dispositive motion and that he
10 requests that this matter be set for trial; and

11 2. **If Plaintiff fails to file a response in compliance with this order, the Court will**
12 **recommend dismissal of this action, without prejudice, for failure to prosecute and**
13 **failure to comply with a Court order.**

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15 IT IS SO ORDERED.

16 Dated: **October 29, 2024**

17 **/s/ Barbara A. McAuliffe**
18 UNITED STATES MAGISTRATE JUDGE
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